

FACTUAL HISTORY

On July 31, 2014 appellant, then a 58-year-old retired part-time flexible sales service associate clerk filed an occupational disease claim alleging that on February 27, 2013 she first became aware of pain in her neck and both shoulders, wrists, and knees.² She further alleged that on July 31, 2014 she first realized that the conditions were caused or aggravated by her repetitive work duties.

By letter dated October 17, 2014, OWCP advised appellant that the evidence submitted was insufficient to establish her claim. It requested additional factual and medical information. OWCP also requested that the employing establishment respond to appellant's allegation and submit evidence any medical evidence, if appellant had been treated at its medical facility. Both appellant and the employing establishment were afforded 30 days to submit the requested information.

In a June 16, 2005 light-duty request form, Dr. Erwin A. Cruz, a Board-certified neurologist, diagnosed headaches and listed appellant's temporary work restrictions.

In a December 2, 2014 decision, OWCP denied appellant's occupational disease claim. It noted that she failed to respond to its October 17, 2014 request for additional factual information. OWCP found that appellant had not submitted rationalized medical evidence to establish a medical condition or disability causally related to her work factors. Consequently, OWCP found that she failed to establish an injury as alleged.

LEGAL PRECEDENT

An employee seeking benefits under FECA³ has the burden of establishing the essential elements of his or her claim, including the fact that the individual is an employee of the United States within the meaning of FECA; that the claim was filed within the applicable time limitation; that an injury was sustained while in the performance of duty as alleged and that any disability and/or specific condition for which compensation is claimed are causally related to the employment injury.⁴ These are the essential elements of each and every compensation claim regardless of whether the claim is predicated on a traumatic injury or an occupational disease.⁵

To establish that an injury was sustained in the performance of duty in an occupational disease claim, a claimant must submit the following: (1) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; (2) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; and (3) medical evidence establishing that the employment factors identified by the claimant were the proximate cause of the condition for

² Appellant retired from the employing establishment on February 28, 2014.

³ 5 U.S.C. §§ 8101-8193.

⁴ C.S., Docket No. 08-1585 (issued March 3, 2009); *Elaine Pendleton*, 40 ECAB 1143 (1989).

⁵ *S.P.*, 59 ECAB 184 (2007); *Victor J. Woodhams*, 41 ECAB 345 (1989); *Joe D. Cameron*, 41 ECAB 153 (1989).

which compensation is claimed or, stated differently, medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the claimant. The medical evidence required to establish a causal relationship is rationalized medical opinion evidence. The opinion of the physician must be based on a complete factual and medical background of the employee, must be one of reasonable certainty, and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the employee.⁶

ANALYSIS

Appellant must establish all of the elements of her claim in order to prevail. She must prove her employment, the time, place, and manner of injury, a resulting personal injury and that her injury arose in the performance of duty.⁷ Appellant alleged that she sustained a neck and bilateral shoulder, wrist, and knee condition as a result of her federal employment duties as a sales service associate clerk.

Appellant did not present a clear factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition. In this case, appellant has not explained how work duties caused or aggravated her claimed neck and bilateral shoulder, wrist and knee conditions.

On October 17, 2014 OWCP informed appellant that the evidence received to date was insufficient to establish that she experienced any employment factors that were alleged to have caused an injury. Appellant was asked to provide a detailed description of the employment-related activities she believed contributed to her condition and how often she performed the described activities. OWCP afforded her 30 days to submit this additional evidence. Appellant did not provide any statement responding to OWCP's inquiry. Dr. Cruz's June 16, 2005 report dates back more than eight years before appellant's dates of awareness and while he sets forth her work restrictions, he fails to describe her employment duties.

Thus, the Board finds that appellant has not sufficiently identified employment factors alleged to have caused or contributed to her claimed neck and bilateral shoulder, wrist, and knee conditions to meet her burden of proof.⁸

As appellant has not established the factual component of her claim, the Board will not address the medical evidence with respect to causal relationship.⁹

On appeal, appellant contended that her claimed injuries were caused by her federal employment. As discussed, she did not adequately describe the employment duties which she alleged caused her injuries. The Board has held that the mere fact that a condition manifests

⁶ *I. J.*, 59 ECAB 408 (2008); *Victor J. Woodhams*, *supra* note 5 at 351-52.

⁷ *See R.Z.*, Docket No. 13-1911 (issued September 15, 2014).

⁸ *Id.*

⁹ *See Bonnie A. Contreras*, 57 ECAB 364 (2006).

itself during a period of employment does not raise an inference of causal relation.¹⁰ An award of compensation may not be based on surmise, conjecture, speculation or on the employee's own belief of causal relation.¹¹ Appellant failed to provide evidence to prove the fact of injury, its time, place, and manner and that the injury was causally related to her federal employment. Because she did not submit sufficient evidence demonstrating the alleged occupational exposure actually occurred as alleged, she did not meet her burden of proof.

Appellant may submit new evidence or argument with a written request for reconsideration to OWCP within one year of this merit decision, pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. §§ 10.605 through 10.607.

CONCLUSION

The Board finds that appellant did not meet her burden of proof to establish neck and bilateral shoulder, wrist, and knee injuries causally related to factors of her federal employment.

ORDER

IT IS HEREBY ORDERED THAT the December 2, 2014 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: April 27, 2015
Washington, DC

Patricia H. Fitzgerald, Deputy Chief Judge
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

James A. Haynes, Alternate Judge
Employees' Compensation Appeals Board

¹⁰ *Daniel O. Vasquez*, 57 ECAB 559 (2006).

¹¹ *D.D.*, 57 ECAB 734 (2006).